

110TH CONGRESS
1ST SESSION

H. R. 811

To amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2007

Mr. HOLT (for himself, Mr. TOM DAVIS of Virginia, Mr. WEXLER, Mr. EMANUEL, Mr. PETRI, Mr. WOLF, Mr. LEWIS of Georgia, Mr. LANGEVIN, Mr. COOPER, Mrs. JONES of Ohio, Mr. CLAY, Mr. SHAYS, Ms. KAPTUR, Mr. ENGLISH of Pennsylvania, Mr. HASTINGS of Florida, Mr. RAMSTAD, Mr. MEEK of Florida, Mr. ISSA, Mr. CUMMINGS, Mrs. BIGGERT, Ms. LEE, Mr. CASTLE, Ms. KILPATRICK of Michigan, Mr. KUHL of New York, Ms. CORRINE BROWN of Florida, Mr. MACK, Mr. SCOTT of Virginia, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Mr. BOREN, Mr. BOSWELL, Mr. BOUCHER, Mr. BOYD of Florida, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Mr. BUTTERFIELD, Mrs. CAPPS, Mr. CARNAHAN, Mr. CHANDLER, Mr. COHEN, Mr. COSTA, Mr. COSTELLO, Mr. COURTNEY, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. LINCOLN DAVIS of Tennessee, Mrs. DAVIS of California, Mr. DEFazio, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DICKS, Mr. DINGELL, Mr. DOGGETT, Mr. DOYLE, Mr. EDWARDS, Mr. ELLISON, Mr. ENGEL, Ms. ESHOO, Mr. ETHERIDGE, Mr. FATTAH, Mr. FILNER, Mr. FORTUÑO, Mr. FRANK of Massachusetts, Mrs. GILLIBRAND, Mr. GONZALEZ, Mr. GORDON of Tennessee, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL of New York, Ms. HARMAN, Ms. HERSETH, Mr. HIGGINS, Mr. HINCHEY, Ms. HIRONO, Mr. HODES, Mr. HOLDEN, Mr. HONDA, Ms. HOOLEY, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KAGEN, Mr. KENNEDY, Mr. KILDEE, Mr. KIND, Mr. KLEIN of Florida, Mr. KUCINICH, Mr. LANTOS, Mr. LARSEN of Washington, Mr. LOEBSACK, Mrs. LOWEY, Mrs. MCCARTHY of New York, Ms. MCCOLLUM of Minnesota, Mr. MCINTYRE, Mr. McNULTY, Mrs. MALONEY of New York, Mr. MARSHALL, Mr. MATHESON, Ms. MATSUI, Mr. MELANCON, Mr. MICHAUD, Mr. MILLER of North Carolina, Mr. GEORGE MILLER of California, Mr. MITCHELL, Mr. MOLLOHAN, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. ORTIZ, Mr.

PALLONE, Mr. PASTOR, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. PRICE of North Carolina, Mr. REYES, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SHERMAN, Mr. SHULER, Ms. SLAUGHTER, Mr. SMITH of Washington, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STUPAK, Ms. SUTTON, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Mr. WALZ of Minnesota, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Ms. WOOLSEY, Mr. WU, Mr. WYNN, and Mr. ALTMIRE) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Voter Confidence and
 5 Increased Accessibility Act of 2007”.

6 **SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECU-**
 7 **RITY THROUGH VOTER-VERIFIED PERMA-**
 8 **NENT PAPER BALLOT.**

9 (a) **BALLOT VERIFICATION AND AUDIT CAPACITY.**—

10 (1) **IN GENERAL.**—Section 301(a)(2) of the
 11 Help America Vote Act of 2002 (42 U.S.C.
 12 15481(a)(2)) is amended to read as follows:

1 “(2) BALLOT VERIFICATION AND AUDIT CAPAC-
2 ITY.—

3 “(A) IN GENERAL.—

4 “(i) The voting system shall require
5 the use of or produce an individual voter-
6 verified paper ballot of the voter’s vote
7 that shall be created by or made available
8 for inspection and verification by the voter
9 before the voter’s vote is cast and counted.
10 For purposes of this clause, examples of
11 such a ballot include a paper ballot marked
12 by the voter for the purpose of being
13 counted by hand or read by an optical
14 scanner or other similar device, a paper
15 ballot prepared by the voter to be mailed
16 to an election official (whether from a do-
17 mestic or overseas location), a paper ballot
18 created through the use of a ballot mark-
19 ing device or system, or a paper ballot pro-
20 duced by a touch screen or other electronic
21 voting machine, so long as in each case the
22 voter is permitted to verify the ballot in a
23 paper form in accordance with this sub-
24 paragraph.

1 “(ii) The voting system shall provide
2 the voter with an opportunity to correct
3 any error made by the system in the voter-
4 verified paper ballot before the permanent
5 voter-verified paper ballot is preserved in
6 accordance with subparagraph (B)(i).

7 “(iii) The voting system shall not pre-
8 serve the voter-verifiable paper ballots in
9 any manner that makes it possible, at any
10 time after the ballot has been cast, to asso-
11 ciate a voter with the record of the voter’s
12 vote.

13 “(B) MANUAL AUDIT CAPACITY.—

14 “(i) The permanent voter-verified
15 paper ballot produced in accordance with
16 subparagraph (A) shall be preserved—

17 “(I) in the case of votes cast at
18 the polling place on the date of the
19 election, within the polling place in
20 the manner or method in which all
21 other paper ballots are preserved
22 within such polling place;

23 “(II) in the case of votes cast at
24 the polling place prior to the date of
25 the election or cast by mail, in a man-

ner which is consistent with the manner employed by the jurisdiction for preserving such ballots in general; or

“(III) in the absence of either such manner or method, in a manner which is consistent with the manner employed by the jurisdiction for preserving paper ballots in general.

“(ii) Each paper ballot produced pursuant to subparagraph (A) shall be suitable for a manual audit equivalent to that of a paper ballot voting system.

“(iii) In the event of any inconsistencies or irregularities between any electronic vote tallies and the vote tallies determined by counting by hand the individual permanent paper ballots produced pursuant to subparagraph (A), and subject to subparagraph (D), the individual permanent paper ballots shall be the true and correct record of the votes cast and shall be used as the official ballots for purposes of any recount or audit conducted with respect to any election for Federal office in which the voting system is used.

“(C) SPECIAL RULE FOR VOTES CAST BY
ABSENT MILITARY AND OVERSEAS VOTERS.—In
the case of votes cast by absent uniformed serv-
ices voters and overseas voters under the Uni-
formed and Overseas Citizens Absentee Voting
Act, the ballots cast by such voters shall serve
as the permanent paper ballot under subpara-
graph (A) in accordance with protocols estab-
lished by the Commission, in consultation with
the Secretary of Defense after notice and op-
portunity for public comment, which preserve
the privacy of the voter and are consistent with
the requirements of such Act and this Act, ex-
cept that to the extent that such protocols per-
mit the use of electronic mail in the delivery or
submission of such ballots, paragraph (11) shall
not apply with respect to the delivery or sub-
mission of the ballots.

“(D) SPECIAL RULE FOR TREATMENT OF
DISPUTES WHEN PAPER BALLOTS HAVE BEEN
SHOWN TO BE COMPROMISED.—In the event of
any inconsistency between any electronic vote
tallies and the vote tallies determined by count-
ing by hand the individual permanent paper
ballots produced pursuant to subparagraph (A),

1 any person seeking to show that the electronic
2 vote tally should be given preference in deter-
3 mining the official count for the election shall
4 be required to demonstrate, by clear and con-
5 vincing evidence, that the paper ballots have
6 been compromised (by damage or mischief or
7 otherwise) and that a sufficient number of the
8 ballots have been so compromised that the re-
9 sult of the election would be changed. For pur-
10 poses of the previous sentence, the paper ballots
11 associated with each voting machine shall be
12 considered on a voting-machine-by-voting-ma-
13 chine basis, and only the sets of paper ballots
14 deemed compromised, if any, shall be consid-
15 ered in the calculation of whether or not the
16 election would be changed due to the com-
17 promised paper ballots.”.

18 (2) CONFORMING AMENDMENT CLARIFYING AP-
19 PPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSI-
20 BILITY.—Section 301(a)(4) of such Act (42 U.S.C.
21 15481(a)(4)) is amended by inserting “(including
22 the paper ballots required to be produced under
23 paragraph (2) and the notice required under para-
24 graph (8))” after “voting system”.

1 (3) OTHER CONFORMING AMENDMENTS.—Sec-
2 tion 301(a)(1) of such Act (42 U.S.C. 15481(a)(1))
3 is amended—

4 (A) in subparagraph (A)(i), by striking
5 “counted” and inserting “counted, in accord-
6 ance with paragraphs (2) and (3)”;

7 (B) in subparagraph (A)(ii), by striking
8 “counted” and inserting “counted, in accord-
9 ance with paragraphs (2) and (3)”;

10 (C) in subparagraph (A)(iii), as amended
11 by paragraph (2), by striking “counted” each
12 place it appears and inserting “counted, in ac-
13 cordance with paragraphs (2) and (3)”;

14 (D) in subparagraph (B)(ii), by striking
15 “counted” and inserting “counted, in accord-
16 ance with paragraphs (2) and (3)”.

17 (b) ACCESSIBILITY AND BALLOT VERIFICATION FOR
18 INDIVIDUALS WITH DISABILITIES.—

19 (1) IN GENERAL.—Section 301(a)(3)(B) of
20 such Act (42 U.S.C. 15481(a)(3)(B)) is amended to
21 read as follows:

22 “(B)(i) satisfy the requirement of subpara-
23 graph (A) through the use of at least one voting
24 system equipped for individuals with disabilities
25 at each polling place; and

“(ii) meet the requirements of subparagraph (A) and paragraph (2)(A) by using a system that—

“(I) allows the voter to privately and independently verify the content of the permanent paper ballot through the conversion of the printed content into accessible media, and

“(II) ensures that the entire process of ballot verification and vote casting is equipped for individuals with disabilities.”.

(2) SPECIFIC REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF ACCESSIBLE BALLOT VERIFICATION MECHANISMS.—

(A) STUDY AND REPORTING.—Subtitle C of title II of such Act (42 U.S.C. 15381 et seq.) is amended—

(i) by redesignating section 247 as section 248; and

(ii) by inserting after section 246 the following new section:

“SEC. 247. STUDY AND REPORT ON ACCESSIBLE BALLOT VERIFICATION MECHANISMS.

“(a) STUDY AND REPORT.—The Director of the National Institute of Standards and Technology shall study,

1 test, and develop best practices to enhance the accessibility
 2 of ballot verification mechanisms for individuals with dis-
 3 abilities, for voters whose primary language is not English,
 4 and for voters with difficulties in literacy, including best
 5 practices for the mechanisms themselves and the processes
 6 through which the mechanisms are used. In carrying out
 7 this section, the Director shall specifically investigate ex-
 8 isting and potential methods or devices that will assist
 9 such individuals and voters in creating voter-verified paper
 10 ballots and in reading or transmitting the information
 11 printed or marked on such ballots back to such individuals
 12 and voters.

13 “(b) DEADLINE.—The Director shall complete the re-
 14 quirements of subsection (a) not later than January 1,
 15 2010.

16 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 17 are authorized to be appropriated to carry out subsection
 18 (a) \$1,000,000, to remain available until expended.”.

19 (B) CLERICAL AMENDMENT.—The table of
 20 contents of such Act is amended—

21 (i) by redesignating the item relating
 22 to section 247 as relating to section 248;

23 and

24 (ii) by inserting after the item relating
 25 to section 246 the following new item:

“Sec. 247. Study and report on accessible voter verification mechanisms.”.

1 (3) CLARIFICATION OF ACCESSIBILITY STAND-
2 ARDS UNDER VOLUNTARY VOTING SYSTEM GUID-
3 ANCE.—In adopting any voluntary guidance under
4 subtitle B of title III of the Help America Vote Act
5 with respect to the accessibility of the ballot
6 verification requirements for individuals with disabil-
7 ities, the Election Assistance Commission shall in-
8 clude and apply the same accessibility standards ap-
9 plicable under the voluntary guidance adopted for
10 accessible voting systems under such subtitle.

11 (c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—

12 (1) REQUIREMENTS DESCRIBED.—Section
13 301(a) of such Act (42 U.S.C. 15481(a)) is amend-
14 ed by adding at the end the following new para-
15 graphs:

16 “(7) INSTRUCTION OF ELECTION OFFICIALS.—
17 Each State shall ensure that all election officials are
18 instructed on the right of any individual who re-
19 quires assistance to vote by reason of blindness,
20 other disability, or inability to read or write to be
21 given assistance by a person chosen by that indi-
22 vidual under section 208 of the Voting Rights Act
23 of 1965.

24 “(8) INSTRUCTION REMINDING VOTERS OF IM-
25 PORTANCE OF VERIFYING PAPER BALLOT.—

1 “(A) IN GENERAL.—The appropriate elec-
2 tion official at each polling place shall cause to
3 be placed in a prominent location in the polling
4 place a notice containing the following state-
5 ment, in boldface type, large font, and using
6 only upper-case letters: ‘THE PAPER BAL-
7 LOT REPRESENTING YOUR VOTE
8 SHALL SERVE AS THE VOTE OF
9 RECORD IN ALL RECOUNTS AND AU-
10 DITS. DO NOT LEAVE THE VOTING
11 BOOTH UNTIL YOU HAVE CONFIRMED
12 THAT IT ACCURATELY RECORDS YOUR
13 VOTE’.

14 “(B) SYSTEMS FOR INDIVIDUALS WITH
15 DISABILITIES.—All voting systems equipped for
16 individuals with disabilities shall transmit by
17 accessible media the statement referred to in
18 subparagraph (A), as well as an explanation of
19 the verification process described in paragraph
20 (3)(B)(ii).

21 “(9) PROHIBITION OF USE OF UNDISCLOSED
22 SOFTWARE IN VOTING SYSTEMS.—No voting system
23 used in an election for Federal office shall at any
24 time contain or use any software not certified by the
25 State for use in the election or any software undis-

1 closed to the State in the certification process. The
2 appropriate election official shall disclose, in elec-
3 tronic form, the source code, object code, and exe-
4 cutable representation of the voting system software
5 and firmware to the Commission, including ballot
6 programming files, and the Commission shall make
7 that source code, object code, executable representa-
8 tion, and ballot programming files available for in-
9 spection promptly upon request to any person.

10 “(10) PROHIBITION OF USE OF WIRELESS COM-
11 MUNICATIONS DEVICES IN VOTING SYSTEMS.—No
12 voting system shall contain, use, or be accessible by
13 any wireless, power-line, remote, wide area, or con-
14 cealed communication device at all.

15 “(11) PROHIBITING CONNECTION OF SYSTEM
16 OR TRANSMISSION OF SYSTEM INFORMATION OVER
17 THE INTERNET.—No component of any voting de-
18 vice upon which votes are cast shall be connected to
19 the Internet at any time.

20 “(12) SECURITY STANDARDS FOR VOTING SYS-
21 TEMS USED IN FEDERAL ELECTIONS.—

22 “(A) IN GENERAL.—No voting system may
23 be used in an election for Federal office unless
24 the manufacturer of such system and the elec-
25 tion officials using such system meet the appli-

1 cable requirements described in subparagraph
2 (B).

3 “(B) REQUIREMENTS DESCRIBED.—The
4 requirements described in this subparagraph
5 are as follows:

6 “(i) The manufacturer and the elec-
7 tion officials shall document the secure
8 chain of custody for the handling of all
9 software, hardware, vote storage media,
10 and ballots used in connection with voting
11 systems, and shall make the information
12 available upon request to the Commission.

13 “(ii) The manufacturer of the soft-
14 ware used in the operation of the system
15 shall provide the appropriate election offi-
16 cial with updated information regarding
17 the identification of each individual who
18 participated in the writing of the software,
19 including specific information regarding
20 whether the individual has ever been con-
21 victed of a crime involving election, ac-
22 counting, or computer security fraud.

23 “(iii) The manufacturer shall provide
24 the appropriate election official with the
25 information necessary for the official to

1 provide information to the Commission
2 under paragraph (9).

3 “(iv) After the appropriate election of-
4 ficial has certified the source code, object
5 code, and executable representation of the
6 voting system software for use in an elec-
7 tion, the manufacturer may not—

8 “(I) alter such codes and rep-
9 resentation; or

10 “(II) insert or use in the voting
11 system any software not certified by
12 the State for use in the election.

13 “(v) The appropriate election official
14 shall ensure that all voting machines and
15 related supplies to be used in the election
16 shall remain secured within storage facili-
17 ties arranged for by the election official,
18 and shall not be removed from such facili-
19 ties until such time as they are to be deliv-
20 ered to the relevant polling place and se-
21 cured at the polling place until used in the
22 election.

23 “(vi) The manufacturer shall meet
24 standards established by the Commission
25 to prevent the existence or appearance of

1 any conflict of interest with respect to can-
2 didates for public office and political par-
3 ties, including standards to ensure that the
4 manufacturer’s officers and directors do
5 not hold positions of authority in any polit-
6 ical party or in any partisan political cam-
7 paign, and shall certify to the Commission
8 not later than January 31 of each even-
9 numbered year that it meets the standards
10 established under this clause.

11 “(vii) At the request of the Commis-
12 sion, the appropriate election official shall
13 submit information to the Commission re-
14 garding the State’s compliance with this
15 subparagraph.

16 “(13) DURABILITY AND READABILITY REQUIRE-
17 MENTS FOR BALLOTS.—

18 “(A) DURABILITY REQUIREMENTS FOR
19 PAPER BALLOTS.—All voter-verified paper bal-
20 lots required to be used under this Act (includ-
21 ing the emergency paper ballots used under
22 paragraph (14)) shall be marked, printed, or re-
23 corded on durable paper of archival quality ca-
24 pable of withstanding multiple counts and re-
25 counts without compromising the fundamental

1 integrity of the ballots, and capable of retaining
2 the information marked, printed, or recorded on
3 them for the full duration of the retention and
4 preservation period called for by title III of the
5 Civil Rights Act of 1960 (42 U.S.C. 1974 et
6 seq.) or under applicable State law, whichever is
7 longer.

8 “(B) READABILITY REQUIREMENTS FOR
9 MACHINE-MARKED OR PRINTED PAPER BAL-
10 LOTS.—All voter-verified paper ballots marked
11 or printed through the use of a marking or
12 printing device shall be clearly readable by the
13 naked eye and by a scanner or other device
14 equipped for voters with disabilities.

15 “(14) PROHIBITING TURNING INDIVIDUALS
16 AWAY FROM POLLING PLACES BECAUSE OF PROB-
17 LEMS WITH OR SHORTAGES OF EQUIPMENT, BAL-
18 LOTS, OR SUPPLIES.—

19 “(A) ENSURING ADEQUATE EQUIPMENT
20 AND SUPPLIES.—Each State shall ensure that
21 the voting systems it uses to conduct elections
22 for Federal office are designed in a manner
23 that ensures that no voter will be unable to cast
24 a ballot at a polling place due to a shortage or

1 failure of voting equipment, ballots, or nec-
2 essary supplies.

3 “(B) USE OF EMERGENCY PAPER BALLOTS
4 IN CASE OF SYSTEM OR EQUIPMENT FAIL-
5 URE.—In the event of the failure of voting
6 equipment or other circumstance at a polling
7 place that causes a delay, any individual who is
8 waiting at the polling place to cast a ballot in
9 an election for Federal office and who would be
10 delayed due to such failure or other cir-
11 cumstance shall be advised immediately of the
12 individual’s right to use an emergency paper
13 ballot, and upon request shall be provided with
14 an emergency paper ballot for the election and
15 the supplies necessary to mark the ballot. Any
16 emergency paper ballot which is cast by an indi-
17 vidual under this subparagraph shall be counted
18 and otherwise treated as a regular ballot and
19 not as a provisional ballot, unless the individual
20 casting the ballot would have otherwise been re-
21 quired to cast a provisional ballot if the voting
22 equipment at the polling place had not failed.”.

23 (2) REQUIRING LABORATORIES TO MEET
24 STANDARDS PROHIBITING CONFLICTS OF INTEREST

1 AS CONDITION OF ACCREDITATION FOR TESTING OF
2 VOTING SYSTEM HARDWARE AND SOFTWARE.—

3 (A) IN GENERAL.—Section 231(b) of such
4 Act (42 U.S.C. 15371(b)) is amended by add-
5 ing at the end the following new paragraphs:

6 “(3) PROHIBITING CONFLICTS OF INTEREST;
7 ENSURING AVAILABILITY OF RESULTS.—

8 “(A) IN GENERAL.—A laboratory may not
9 be accredited by the Commission for purposes
10 of this section unless—

11 “(i) the laboratory certifies that the
12 only compensation it receives for the test-
13 ing carried out in connection with the cer-
14 tification, decertification, and recertifi-
15 cation of the manufacturer’s voting system
16 hardware and software is the payment
17 made from the Testing Escrow Account
18 under paragraph (4);

19 “(ii) the laboratory meets the stand-
20 ards applicable to the manufacturers of
21 voting systems under section
22 301(a)(11)(B)(vi), together with such
23 standards as the Commission shall estab-
24 lish (after notice and opportunity for pub-
25 lic comment) to prevent the existence or

1 appearance of any conflict of interest in
2 the testing carried out by the laboratory
3 under this section, including standards to
4 ensure that the laboratory does not have a
5 financial interest in the manufacture, sale,
6 and distribution of voting system hardware
7 and software, and is sufficiently inde-
8 pendent from other persons with such an
9 interest;

10 “(iii) the laboratory certifies that it
11 will permit an expert designated by the
12 Commission to observe any testing the lab-
13 oratory carries out under this section; and

14 “(iv) the laboratory, upon completion
15 of any testing carried out under this sec-
16 tion, discloses the test protocols, results,
17 and all communication between the labora-
18 tory and the manufacturer to the Commis-
19 sion.

20 “(B) AVAILABILITY OF RESULTS.—Upon
21 receipt of information under subparagraph (A),
22 the Commission shall make the information
23 available promptly to election officials and the
24 public.

1 “(4) PROCEDURES FOR CONDUCTING TESTING;
2 PAYMENT OF USER FEES FOR COMPENSATION OF
3 ACCREDITED LABORATORIES.—

4 “(A) ESTABLISHMENT OF ESCROW AC-
5 COUNT.—The Commission shall establish an es-
6 crow account (to be known as the ‘Testing Es-
7 crow Account’) for making payments to accred-
8 ited laboratories for the costs of the testing car-
9 ried out in connection with the certification, de-
10 certification, and recertification of voting sys-
11 tem hardware and software.

12 “(B) SCHEDULE OF FEES.—In consulta-
13 tion with the accredited laboratories, the Com-
14 mission shall establish and regularly update a
15 schedule of fees for the testing carried out in
16 connection with the certification, decertification,
17 and recertification of voting system hardware
18 and software, based on the reasonable costs ex-
19 pected to be incurred by the accredited labora-
20 tories in carrying out the testing for various
21 types of hardware and software.

22 “(C) REQUESTS AND PAYMENTS BY MANU-
23 FACTURERS.—A manufacturer of voting system
24 hardware and software may not have the hard-

ware or software tested by an accredited laboratory under this section unless—

“(i) the manufacturer submits a detailed request for the testing to the Commission; and

“(ii) the manufacturer pays to the Commission, for deposit into the Testing Escrow Account established under subparagraph (A), the applicable fee under the schedule established and in effect under subparagraph (B).

“(D) SELECTION OF LABORATORY.—Upon receiving a request for testing and the payment from a manufacturer required under subparagraph (C), the Commission shall select at random, from all laboratories which are accredited under this section to carry out the specific testing requested by the manufacturer, an accredited laboratory to carry out the testing.

“(E) PAYMENTS TO LABORATORIES.—Upon receiving a certification from a laboratory selected to carry out testing pursuant to subparagraph (D) that the testing is completed, along with a copy of the results of the test as required under paragraph (3)(A)(iii), the Com-

mission shall make a payment to the laboratory from the Testing Escrow Account established under subparagraph (A) in an amount equal to the applicable fee paid by the manufacturer under subparagraph (C)(ii).

“(5) DISSEMINATION OF ADDITIONAL INFORMATION ON ACCREDITED LABORATORIES.—

“(A) INFORMATION ON TESTING.—Upon completion of the testing of a voting system under this section, the Commission shall promptly disseminate to the public the identification of the laboratory which carried out the testing.

“(B) LABORATORIES WITH ACCREDITATION REVOKED OR SUSPENDED.—If the Commission revokes, terminates, or suspends the accreditation of a laboratory under this section, the Commission shall promptly notify Congress, the chief State election official of each State, and the public.”.

(B) CONFORMING AMENDMENTS.—Section 231 of such Act (42 U.S.C. 15371) is further amended—

(i) in subsection (a)(1), by striking “testing, certification,” and all that follows

1 and inserting the following: “testing of vot-
2 ing system hardware and software by ac-
3 credited laboratories in connection with the
4 certification, decertification, and recertifi-
5 cation of the hardware and software for
6 purposes of this Act.”;

7 (ii) in subsection (a)(2), by striking
8 “testing, certification,” and all that follows
9 and inserting the following: “testing of its
10 voting system hardware and software by
11 the laboratories accredited by the Commis-
12 sion under this section in connection with
13 certifying, decertifying, and recertifying
14 the hardware and software.”;

15 (iii) in subsection (b)(1), by striking
16 “testing, certification, decertification, and
17 recertification” and inserting “testing”;
18 and

19 (iv) in subsection (d), by striking
20 “testing, certification, decertification, and
21 recertification” each place it appears and
22 inserting “testing”.

23 (C) DEADLINE FOR ESTABLISHMENT OF
24 STANDARDS AND ESCROW ACCOUNT.—The
25 Election Assistance Commission shall establish

1 the standards described in section 231(b)(3) of
2 the Help America Vote Act of 2002 and the
3 Testing Escrow Account described in section
4 231(b)(4) of such Act (as added by subpara-
5 graph (A)) not later than January 1, 2008.

6 (3) SPECIAL CERTIFICATION OF BALLOT DURA-
7 BILITY AND READABILITY REQUIREMENTS FOR
8 STATES NOT CURRENTLY USING PAPER BALLOTS.—

9 If any of the voting systems used in a State for the
10 regularly scheduled 2006 general elections for Fed-
11 eral office did not operate by having voters cast
12 votes on paper ballots (such as through the use of
13 an optical scan voting system), the State shall cer-
14 tify to the Election Assistance Commission not later
15 than 90 days after the date of the enactment of this
16 Act that the State will be in compliance with the re-
17 quirements of section 301(a)(13) of the Help Amer-
18 ica Vote of 2002, as added by paragraph (1), in ac-
19 cordance with the deadline established under this
20 Act, and shall include in the certification the meth-
21 ods by which the State will meet the requirements.

22 (d) AVAILABILITY OF ADDITIONAL FUNDING TO EN-
23 ABLE STATES TO MEET COSTS OF REVISED REQUIRE-
24 MENTS.—

1 (1) EXTENSION OF REQUIREMENTS PAYMENTS
2 FOR MEETING REVISED REQUIREMENTS.—Section
3 257(a) of the Help America Vote Act of 2002 (42
4 U.S.C. 15407(a) is amended by adding at the end
5 the following new paragraph:

6 “(4) For fiscal year 2007, \$300,000,000, except
7 that any funds provided under the authorization
8 made by this paragraph shall be used by a State
9 only to meet the requirements of title III which are
10 first imposed on the State pursuant to the amend-
11 ments made by section 2 of the Voter Confidence
12 and Increased Accessibility Act of 2007, or to other-
13 wise modify or replace its voting systems in response
14 to such amendments.”.

15 (2) USE OF REVISED FORMULA FOR ALLOCA-
16 TION OF FUNDS.—Section 252(b) of such Act (42
17 U.S.C. 15402(b)) is amended to read as follows:

18 “(b) STATE ALLOCATION PERCENTAGE DEFINED.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), the ‘State allocation percentage’ for a
21 State is the amount (expressed as a percentage)
22 equal to the quotient of—

23 “(A) the voting age population of the State
24 (as reported in the most recent decennial cen-
25 sus); and

1 “(B) the total voting age population of all
 2 States (as reported in the most recent decennial
 3 census).

4 “(2) SPECIAL RULE FOR PAYMENTS FOR FIS-
 5 CAL YEAR 2007.—

6 “(A) IN GENERAL.—In the case of the re-
 7 quirements payment made to a State for fiscal
 8 year 2007, the ‘State allocation percentage’ for
 9 a State is the amount (expressed as a percent-
 10 age) equal to the quotient of—

11 “(i) the number of remedial precincts
 12 in the State; and

13 “(ii) the total number of remedial pre-
 14 cincts in all States.

15 “(B) REMEDIAL PRECINCT DEFINED.—In
 16 this paragraph, a ‘remedial precinct’ means any
 17 precinct (or equivalent location) within the
 18 State for which the voting system used to ad-
 19 minister the regularly scheduled general election
 20 for Federal office held in November 2006—

21 “(i) did not use paper as the medium
 22 for vote casting, or if the system used
 23 paper, did not use durable paper of archi-
 24 val quality; or

1 “(ii) did not provide that the entire
2 process of ballot verification was equipped
3 for individuals with disabilities.”.

4 (3) INCREASE IN STATE MINIMUM SHARE OF
5 PAYMENT.—Section 252(c) of such Act (42 U.S.C.
6 15402(c)) is amended—

7 (A) in paragraph (1), by inserting after
8 “one-half of 1 percent” the following: “(or, in
9 the case of the payment made for fiscal year
10 2007, 1 percent)”; and

11 (B) in paragraph (2), by inserting after
12 “one-tenth of 1 percent” the following: “(or, in
13 the case of the payment made for fiscal year
14 2007, one-half of 1 percent)”.

15 (4) REVISED CONDITIONS FOR RECEIPT OF
16 FUNDS.—Section 253 of such Act (42 U.S.C.
17 15403) is amended—

18 (A) in subsection (a), by striking “A State
19 is eligible” and inserting “Except as provided in
20 subsection (f), a State is eligible”; and

21 (B) by adding at the end the following new
22 subsection:

23 “(f) SPECIAL RULE FOR FISCAL YEAR 2007.—Not-
24 withstanding any other provision of this part, a State is

1 eligible to receive a requirements payment for fiscal year
2 2007 if—

3 “(1) not later than 30 days after the date of
4 the enactment of the Voter Confidence and In-
5 creased Accessibility Act of 2007, the State certifies
6 to the Commission the number of remedial precincts
7 in the State (as defined in section 252(b)(2)(B));
8 and

9 “(2) not later than 90 days after the date of
10 the enactment of such Act, the chief executive officer
11 of the State, or designee, in consultation and coordi-
12 nation with the chief State election official, has filed
13 a statement with the Commission describing the
14 State’s need for the payment and how the State will
15 use the payment to meet the requirements of title
16 III (in accordance with the limitations applicable to
17 the use of the payment under section 257(a)(4)).”.

18 (5) PERMITTING USE OF FUNDS FOR REIM-
19 BURSEMENT FOR COSTS PREVIOUSLY INCURRED.—
20 Section 251(c)(1) of such Act (42 U.S.C.
21 15401(c)(1)) is amended by striking the period at
22 the end and inserting the following: “, or as a reim-
23 bursement for any costs incurred in meeting the re-
24 quirements of title III which are imposed pursuant
25 to the amendments made by section 2 of the Voter

Confidence and Increased Accessibility Act of 2007 or in otherwise modifying or replacing voting systems in response to such amendments.”.

(6) RULE OF CONSTRUCTION REGARDING STATES RECEIVING OTHER FUNDS FOR REPLACING PUNCH CARD, LEVER, OR OTHER VOTING MACHINES.—Nothing in the amendments made by this subsection or in any other provision of the Help America Vote Act of 2002 may be construed to prohibit a State which received or was authorized to receive a payment under title I or II of such Act for replacing punch card, lever, or other voting machines from receiving or using any funds which are made available under the amendments made by this subsection.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to fiscal years beginning with fiscal year 2007.

SEC. 3. ENHANCEMENT OF ENFORCEMENT OF HELP AMERICA VOTE ACT OF 2002.

Section 401 of such Act (42 U.S.C. 15511) is amended—

(1) by striking “The Attorney General” and inserting “(a) IN GENERAL.—The Attorney General”; and

1 (2) by adding at the end the following new sub-
2 sections:

3 “(b) FILING OF COMPLAINTS BY AGGRIEVED PER-
4 SONS.—

5 “(1) IN GENERAL.—A person who is aggrieved
6 by a violation of section 301, 302, or 303 which has
7 occurred, is occurring, or is about to occur may file
8 a written, signed, notarized complaint with the At-
9 torney General describing the violation and request-
10 ing the Attorney General to take appropriate action
11 under this section.

12 “(2) RESPONSE BY ATTORNEY GENERAL.—The
13 Attorney General shall respond to each complaint
14 filed under paragraph (1), in accordance with proce-
15 dures established by the Attorney General that re-
16 quire responses and determinations to be made with-
17 in the same (or shorter) deadlines which apply to a
18 State under the State-based administrative com-
19 plaint procedures described in section 402(a)(2).

20 “(c) CLARIFICATION OF AVAILABILITY OF PRIVATE
21 RIGHT OF ACTION.—Nothing in this section may be con-
22 strued to prohibit any person from bringing an action
23 under section 1979 of the Revised Statutes of the United
24 States (42 U.S.C. 1983) (including any individual who
25 seeks to enforce the individual’s right to a voter-verified

1 paper ballot, the right to have the voter-verified paper bal-
 2 lot counted in an election, or any other right under subtitle
 3 A of title III) to enforce the uniform and nondiscrim-
 4 inatory election technology and administration require-
 5 ments under sections 301, 302, and 303.

6 “(d) NO EFFECT ON STATE PROCEDURES.—Nothing
 7 in this section may be construed to affect the availability
 8 of the State-based administrative complaint procedures re-
 9 quired under section 402 to any person filing a complaint
 10 under this subsection.”.

11 **SEC. 4. EXTENSION OF AUTHORIZATION OF ELECTION AS-**
 12 **SISTANCE COMMISSION.**

13 (a) IN GENERAL.—Section 210 of the Help America
 14 Vote Act of 2002 (42 U.S.C. 15330) is amended by strik-
 15 ing “each of the fiscal years 2003 through 2005” and in-
 16 serting “each fiscal year beginning with fiscal year 2003”.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 subsection (a) shall take effect as if included in the enact-
 19 ment of the Help America Vote Act of 2002.

20 **SEC. 5. REQUIREMENT FOR MANDATORY MANUAL AUDITS**
 21 **BY HAND COUNT.**

22 (a) MANDATORY MANUAL AUDITS BY ELECTION
 23 AUDIT BOARDS.—Title III of the Help America Vote Act
 24 of 2002 (42 U.S.C. 15481 et seq.) is amended by adding
 25 at the end the following new subtitle:

1 **“Subtitle C—Mandatory Manual**
2 **Audits by Election Audit Boards**

3 **“SEC. 321. ESTABLISHMENT OF ELECTION AUDIT BOARDS.**

4 “(a) ESTABLISHMENT.—Not later than 60 days be-
5 fore the date of each election for Federal office held in
6 the State, the chief auditor of each State shall appoint
7 an Election Audit Board to administer, without advance
8 notice to the precincts selected, random hand counts of
9 the voter-verified paper ballots required to be produced
10 and preserved pursuant to section 301(a)(2) for each such
11 election held in the State (and, at the option of the State
12 or jurisdiction involved, of elections for State and local of-
13 fice held at the same time as such election).

14 “(b) COMPOSITION.—

15 “(1) IN GENERAL.—Each political party in the
16 State with a candidate in any of the regularly sched-
17 uled elections for Federal office held in the State
18 whose candidates in the most recent regularly sched-
19 uled general elections in the State received at least
20 5% of the aggregate number of all votes cast in such
21 elections, together with any independent candidate
22 who received at least 5% of the aggregate number
23 of all votes cast in the most recent regularly sched-
24 uled general elections in the State, shall select a

1 qualified individual for appointment to the Election
2 Audit Board of the State.

3 “(2) UNAFFILIATED MEMBERS.—In addition to
4 the individuals serving on the Board pursuant to
5 paragraph (1), the chief auditor of the State shall
6 appoint qualified individuals who are not nominated
7 by any political party or candidate and who are not
8 employees or agents of any political party or can-
9 didate to serve on the Board. The number of individ-
10 uals appointed pursuant to this paragraph shall be
11 sufficient to ensure that the total number of individ-
12 uals serving on the Board is an odd number not less
13 than 7.

14 “(3) QUALIFICATIONS.—An individual is quali-
15 fied to be appointed to the Board if the individual
16 has professional experience in carrying out audits on
17 an impartial basis, and does not have any conflict of
18 interest with the manufacturer or vendor of any vot-
19 ing system which was used in any of the elections
20 that will be audited by the Board.

21 “(4) DIVERSITY IN APPOINTMENTS.—In mak-
22 ing appointments to the Board, the chief auditor of
23 the State shall (to the greatest extent practicable)
24 ensure that the members of the Board reflect the de-

1 mographic composition of the voting age population
2 of the State.

3 “(c) SPECIAL RULE FOR RUNOFF AND SPECIAL
4 ELECTIONS.—

5 “(1) RUNOFF ELECTIONS.—If a runoff election
6 for Federal office is held in the State, the Election
7 Audit Board which was appointed for the initial elec-
8 tion which resulted in the runoff election shall serve
9 as the Election Audit Board with respect to the run-
10 off election.

11 “(2) SPECIAL ELECTIONS.—If a special election
12 for Federal office is held in the State (other than a
13 special election held on the same date as the date of
14 a regularly scheduled election for Federal office), the
15 Election Audit Board which was appointed for the
16 most recent regularly scheduled election for Federal
17 office in the State shall serve as the Election Audit
18 Board with respect to the special election.

19 “(d) CHIEF AUDITOR DEFINED.—In this subsection,
20 the ‘chief auditor’ of a State is an official of the State
21 government, who, as designated by the Attorney General
22 of the State and certified by the Attorney General of the
23 State to the Commission, is responsible for conducting an-
24 nual audits of the operations of the government of the
25 State under the laws or constitution of the State, except

1 that in no case may an individual serve as the chief audi-
2 tor of a State under this subsection if the individual is
3 the chief State election official.

4 **“SEC. 322. NUMBER OF BALLOTS COUNTED UNDER AUDIT.**

5 “(a) IN GENERAL.—Except as provided in subsection
6 (b), the number of voter-verified paper ballots which will
7 be subject to a hand count administered by the Election
8 Audit Board of a State under this subtitle with respect
9 to an election shall be determined as follows:

10 “(1) In the event that the unofficial count as
11 described in section 323(a)(1) reveals that the mar-
12 gin of victory between the two candidates receiving
13 the largest number of votes in the election is less
14 than 1 percent of the total votes cast in that elec-
15 tion, the hand counts of the voter-verified paper bal-
16 lots shall occur in 10 percent of all precincts (or
17 equivalent locations) in the Congressional district in-
18 volved (in the case of an election for the House of
19 Representatives) or the State (in the case of any
20 other election for Federal office).

21 “(2) In the event that the unofficial count as
22 described in section 323(a)(1) reveals that the mar-
23 gin of victory between the two candidates receiving
24 the largest number of votes in the election is greater
25 than or equal to 1 percent but less than 2 percent

1 of the total votes cast in that election, the hand
2 counts of the voter-verified paper ballots shall occur
3 in 5 percent of all precincts (or equivalent locations)
4 in the Congressional district involved (in the case of
5 an election for the House of Representatives) or the
6 State (in the case of any other election for Federal
7 office).

8 “(3) In the event that the unofficial count as
9 described in section 323(a)(1) reveals that the mar-
10 gin of victory between the two candidates receiving
11 the largest number of votes in the election is equal
12 to or greater than 2 percent of the total votes cast
13 in that election, the hand counts of the voter-verified
14 paper ballots shall occur in 3 percent of all precincts
15 (or equivalent locations) in the Congressional district
16 involved (in the case of an election for the House of
17 Representatives) or the State (in the case of any
18 other election for Federal office).

19 “(b) USE OF ALTERNATIVE MECHANISM.—Notwith-
20 standing subsection (a), a State may adopt and apply an
21 alternative mechanism to determine the number of voter-
22 verified paper ballots which will be subject to the hand
23 counts required under this subtitle with respect to an elec-
24 tion, so long as the National Institute of Standards and
25 Technology determines that the alternative mechanism

1 will be at least as effective in ensuring the accuracy of
2 the election results and as transparent as the procedure
3 under subsection (a).

4 **“SEC. 323. PROCESS FOR ADMINISTERING AUDITS.**

5 “(a) IN GENERAL.—The Election Audit Board of a
6 State shall administer an audit under this section of the
7 results of an election in accordance with the following pro-
8 cedures:

9 “(1) Within 24 hours after the State announces
10 the final unofficial vote count in each precinct in the
11 State, the Board shall determine and then announce
12 the precincts in the State in which it will administer
13 the audits.

14 “(2) With respect to votes cast at the precinct
15 or equivalent location on or before the date of the
16 election (other than provisional ballots described in
17 paragraph (3)), the Board shall administer the hand
18 count of the votes on the paper voter-verified ballots
19 required to be produced and preserved under section
20 301(a)(2)(A) and the comparison of the count of the
21 votes on those ballots with the final unofficial count
22 of such votes as announced by the State.

23 “(3) With respect to votes cast other than at
24 the precinct on the date of the election (other than
25 votes cast before the date of the election described

1 in paragraph (2)) or votes cast by provisional ballot
2 on the date of the election which are certified and
3 counted by the State on or after the date of the elec-
4 tion, including votes cast by absent uniformed serv-
5 ices voters and overseas voters under the Uniformed
6 and Overseas Citizens Absentee Voting Act, the
7 Board shall administer the hand count of the appli-
8 cable voter-verified ballots required to be produced
9 and preserved under section 301(a)(2)(A) and sec-
10 tion 301(a)(2)(B) and compare the count it admin-
11 isters with the count of such votes as announced by
12 the State.

13 “(b) SPECIAL RULE IN CASE OF DELAY IN REPORT-
14 ING ABSENTEE VOTE COUNT.—In the case of a State in
15 which, under State law, the final count of absentee and
16 provisional votes is not announced until after the expira-
17 tion of the 7-day period which begins on the date of the
18 election, the Election Audit Board shall initiate the proc-
19 ess described in subsection (a) for administering the audit
20 not later than 24 hours after the State announces the final
21 unofficial vote count for the votes cast at the precinct or
22 equivalent location on or before the date of the election,
23 and shall initiate the administration of the audit of the
24 absentee and provisional votes pursuant to subsection

1 (a)(3) not later than 24 hours after the State announces
2 the final unofficial count of such votes.

3 “(c) ADDITIONAL AUDITS IF CAUSE SHOWN.—

4 “(1) IN GENERAL.—If the Election Audit
5 Board finds that any of the hand counts adminis-
6 tered under this section do not match the final unof-
7 ficial tally of the results of an election, the Board
8 shall administer hand counts under this section of
9 such additional precincts (or equivalent jurisdictions)
10 as the Board considers appropriate to resolve any
11 concerns resulting from the audit and ensure the ac-
12 curacy of the results.

13 “(2) ESTABLISHMENT AND PUBLICATION OF
14 PROCEDURES GOVERNING ADDITIONAL AUDITS.—

15 Not later than January 1, 2008, each State shall es-
16 tablish and publish procedures for carrying out the
17 additional audits under this subsection, including the
18 means by which the State shall resolve any concerns
19 resulting from the audit with finality and ensure the
20 accuracy of the results.

21 “(d) PUBLIC OBSERVATION OF AUDITS.—Each audit
22 conducted under this section shall be conducted in a man-
23 ner that allows public observation of the entire process.

1 **“SEC. 324. SELECTION OF PRECINCTS.**

2 “(a) IN GENERAL.—Except as provided in subsection
3 (c), the selection of the precincts in the State in which
4 the Election Audit Board of the State shall administer the
5 hand counts under this subtitle shall be made by the
6 Board on an entirely random basis using a uniform dis-
7 tribution in which all precincts in a State have an equal
8 chance of being selected, in accordance with such proce-
9 dures as the Commission determines appropriate, except
10 that—

11 “(1) at least one precinct shall be selected at
12 random in each county; and

13 “(2) the Commission shall publish the proce-
14 dures in the Federal Register prior to the selection
15 of the precincts.

16 “(b) PUBLIC SELECTION.—The random selection of
17 precincts under subsection (a) shall be conducted in pub-
18 lic, at a time and place announced in advance.

19 “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-
20 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a
21 State establishes a separate precinct for purposes of
22 counting the absentee ballots cast in an election and treats
23 all absentee ballots as having been cast in that precinct,
24 and if the state does not make absentee ballots sortable
25 by precinct, the State shall include that precinct among
26 the precincts in the State in which the Election Audit

1 Board shall administer the hand counts under this sub-
2 title.

3 **“SEC. 325. PUBLICATION OF RESULTS.**

4 “(a) SUBMISSION TO COMMISSION.—As soon as prac-
5 ticable after the completion of an audit under this subtitle,
6 the Election Audit Board of a State shall submit to the
7 Commission the results of the audit, and shall include in
8 the submission a comparison of the results of the election
9 in the precinct as determined by the Board under the
10 audit and the final unofficial vote count in the precinct
11 as announced by the State, as well as a list of any discrep-
12 ancies discovered between the initial, subsequent, and final
13 hand counts administered by the Board and such final un-
14 official vote count and any explanation for such discrep-
15 ancies, broken down by the categories of votes described
16 in paragraphs (2) and (3) of section 323(a).

17 “(b) PUBLICATION BY COMMISSION.—Immediately
18 after receiving the submission of the results of an audit
19 from the Election Audit Board of a State under subsection
20 (a), the Commission shall publicly announce and publish
21 the information contained in the submission.

22 “(c) DELAY IN CERTIFICATION OF RESULTS BY
23 STATE.—

24 “(1) PROHIBITING CERTIFICATION UNTIL COM-
25 PLETION OF AUDITS.—No State may certify the re-

1 sults of any election which is subject to an audit
2 under this subtitle prior to the completion of the
3 audit and the announcement and submission of the
4 results of the audit to the Commission for publica-
5 tion of the information required under this section.

6 “(2) DEADLINE FOR COMPLETION OF AUDITS
7 OF PRESIDENTIAL ELECTIONS.—In the case of an
8 election for electors for President and Vice President
9 which is subject to an audit under this subtitle, the
10 State shall complete the audits and announce and
11 submit the results to the Commission for publication
12 of the information required under this section in
13 time for the State to certify the results of the elec-
14 tion and provide for the final determination of any
15 controversy or contest concerning the appointment
16 of such electors prior to the deadline described in
17 section 6 of title 3, United States Code.

18 **“SEC. 326. PAYMENTS TO STATES.**

19 “(a) PAYMENTS FOR COSTS OF CONDUCTING AU-
20 DITS.—In accordance with the requirements and proce-
21 dures of this section, the Commission shall make a pay-
22 ment to a State to cover the costs incurred by the State
23 in carrying out this subtitle with respect to the elections
24 that are the subject of the audits conducted under this
25 subtitle.

1 “(b) CERTIFICATION OF COMPLIANCE AND ANTICI-
2 PATED COSTS.—

3 “(1) CERTIFICATION REQUIRED.—In order to
4 receive a payment under this section, a State shall
5 submit to the Commission, in such form as the Com-
6 mission may require, a statement containing—

7 “(A) a certification that the State will con-
8 duct the audits required under this subtitle in
9 accordance with all of the requirements of this
10 subtitle;

11 “(B) a notice of the reasonable costs an-
12 ticipated to be incurred by the State in carrying
13 out this subtitle with respect to the elections in-
14 volved; and

15 “(C) such other information and assur-
16 ances as the Commission may require.

17 “(2) AMOUNT OF PAYMENT.—The amount of a
18 payment made to a State under this section shall be
19 equal to the reasonable costs anticipated to be in-
20 curred by the State in carrying out this subtitle with
21 respect to the elections involved, as set forth in the
22 statement submitted under paragraph (1) a notice
23 submitted by the State to the Commission (in such
24 form and containing such information as the Com-
25 mission may require).

1 “(3) TIMING OF NOTICE.—The State may not
2 submit a notice under paragraph (1) until can-
3 didates have been selected to appear on the ballot
4 for all of the elections for Federal office which will
5 be the subject of the audits involved.

6 “(c) TIMING OF PAYMENTS.—The Commission shall
7 make the payment required under this section to a State
8 not later than 30 days after receiving the notice submitted
9 by the State under subsection (b).

10 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Commission for
12 fiscal year 2008 and each succeeding fiscal year such sums
13 as may be necessary for payments under this section.

14 **“SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO AUTO-**
15 **MATIC RECOUNT UNDER STATE LAW.**

16 “‘This subtitle does not apply to any election for
17 which a recount is required automatically under State law
18 because of the margin of victory between the two can-
19 didates receiving the largest number of votes in the elec-
20 tion. Nothing in the previous sentence may be construed
21 to waive the application of any other provision of this Act
22 to any election (including the ballot verification and audit
23 capacity requirements of section 301(a)(2)).

1 **“SEC. 328. EFFECTIVE DATE.**

2 “This subtitle shall apply with respect to elections for
3 Federal office beginning with the regularly scheduled gen-
4 eral elections held in November 2008.”.

5 (b) AVAILABILITY OF ENFORCEMENT UNDER HELP
6 AMERICA VOTE ACT OF 2002.—Section 401 of such Act
7 (42 U.S.C. 15511), as amended by section 3, is amend-
8 ed—

9 (1) in subsection (a), by striking the period at
10 the end and inserting the following: “, or the re-
11 quirements of subtitle C of title III.”;

12 (2) in subsection (b)(1), by striking “section
13 303” and inserting “section 303, or subtitle C of
14 title III,”; and

15 (3) in subsection (c)—

16 (A) by striking “subtitle A” and inserting
17 “subtitles A or C”, and

18 (B) by striking the period at the end and
19 inserting the following: “, or the requirements
20 of subtitle C of title III.”.

21 (c) CLERICAL AMENDMENT.—The table of contents
22 of such Act is amended by adding at the end of the item
23 relating to title III the following:

“Subtitle C—Mandatory Manual Audits by Election Audit Boards

“Sec. 321. Establishment of Election Audit Boards.

“Sec. 322. Number of ballots counted under audit.

“Sec. 323. Process for administering audits.

“Sec. 324. Selection of precincts.

“Sec. 325. Publication of results.

“Sec. 326. Payments to States.

“Sec. 327. Exception for elections subject to automatic recount within 24 hours
under State law.

“Sec. 328. Effective date.”.

1 **SEC. 6. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**
2 **COMMISSION FROM CERTAIN GOVERNMENT**
3 **CONTRACTING REQUIREMENTS.**

4 (a) IN GENERAL.—Section 205 of the Help America
5 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-
6 ing subsection (e).

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply with respect to contracts entered
9 into by the Election Assistance Commission on or after
10 the date of the enactment of this Act.

11 **SEC. 7. EFFECTIVE DATE.**

12 Except as otherwise provided, this Act and the
13 amendments made by this Act shall apply with respect to
14 elections for Federal office occurring during 2008 and
15 each succeeding year.

